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1 headcount?

2 A Off the top of my head, it's my understanding it was more  
3 than 1,000 individuals were severed from the company in the  
4 fourth quarter of 2001, into the first quarter of 2002.

5 Q So in connection with the Expanets, there would have been  
6 other soft cost reductions as well, correct?

7 A Absolutely.

8 Q And that's just a difference between taking a projection,  
9 and then looking at the actual cost at the end of the year, and  
10 attributing that portion that would have happened, regardless  
11 of whether or not there had been any activity by the  
12 procurement department?

13 A That is correct.

14 Q I'd ask you now to tell us, based on your analysis -- and  
15 we'll go back to Mr. Coleman's objection in just a second --  
16 but based on your analysis, comparing his objection to the  
17 Behring Point information, did you draw any conclusions about  
18 -- if we were to run a calculation, would Mr. Coleman be  
19 entitled to a bonus?

20 A Based upon the analysis of Behring Point's information --  
21 which again, establishes both hard and soft dollar analysis --  
22 and then based upon the formulas that were put together within  
23 his offer letter, that included the elimination of external, as  
24 well as internal procurement costs, there would be no savings  
25 eligible for a bonus payment.

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1 Q Can you tell the Court what the hard dollar savings were  
2 for 2002?

3 A Based upon the Behring Point report, the hard dollar  
4 savings were \$4,698,800.

5 Q And what were the external costs?

6 A Based on internal reports, the external costs were \$4.3  
7 million. There were some additional -- as I indicated, I've  
8 also included internal costs, including Mr. Coleman's salary,  
9 as well as his staff's salary. And that was roughly \$500,000.  
10 One other elimination from this \$4,698,800 number was it  
11 already had developed a procurement item, that Expanets had  
12 already done before Mr. Coleman's group started their  
13 activities. And that was an annual savings of \$273,200, which  
14 should also be reduced from this hard dollar savings number.

15 Q So in terms of doing your analysis and coming to the  
16 conclusion that Mr. Coleman is not entitled to a bonus, you  
17 took the hard dollar savings of \$4,698,800?

18 A That is correct.

19 Q And then you reduced external costs -- the costs  
20 attributed to Expanets -- for the result of procurement  
21 reductions, that had nothing to do with Mr. Coleman. And then,  
22 you reduced internal costs by 500,000?

23 A That is correct.

24 Q Do you know whether, from your review of Mr. Coleman's  
25 claim objection, he agrees with any of those numbers?

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1 A I -- based on his claim request, I do not believe he  
2 agrees with those.

3 Q And did you calculate out, after reducing out those  
4 reductions, whether or not there was any number?

5 A No. It's actually a negative number.

6 Q And how much is it a negative number?

7 A \$374,400.

8 Q So based on the information available to NorthWestern, in  
9 its books and records, there is no bonus due under Mr.  
10 Coleman's offer letter?

11 A That is correct.

12 Q Okay. I'd like for you to turn now to Exhibit 2, which is  
13 Mr. Coleman's claim -- response to the debtor's objection.

14 A Okay.

15 Q And move into the back, following the offer letter. You  
16 will see a document that's titled; "Procurement Opportunities."  
17 It's the document that follows right after his offer letter.

18 A Yes.

19 Q Have you seen that document -- is that document in  
20 NorthWestern's books and records?

21 A Yes, it is.

22 Q Okay. And what is it?

23 A I'll be honest with you. It is -- I'm not sure what it  
24 is.

25 Q Okay. But you did see it in the files?

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1 A Yes, I did.

2 Q Does it accurately reflect the information that Behring  
3 Point gathered, in connection with its review?

4 A It neither reflects Behring Point's or the internal  
5 documents that were done by Mr. Coleman's department.

6 Q Thank you. With regard to the overall initiative score  
7 cards, which is two pages beyond that document -- it looks like  
8 a PowerPoint slide presentation.

9 A Yes.

10 Q Are these documents in NorthWestern's books and records?

11 A Yes, they are.

12 Q And what are they?

13 A It is my understanding, this is the annual review of  
14 overall initiative score cards, related to the procurement  
15 activities of Mr. Coleman's group in 2002.

16 Q And is this document consistent with the information  
17 gathered by Behring Point?

18 A There is differential, in terms of the total amounts, for  
19 both a combination of hard and soft. The one thing I'll point  
20 out in this report is there is no breakout between hard dollar  
21 savings and soft dollar savings.

22 Q So the soft dollar savings have been included?

23 A That is correct.

24 Q And once again, those would be the savings that would have  
25 happened, whether or not you had a procurement department or

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1 not?

2 A And again, I would point for the specific area of travel,  
3 where most of the savings were determined in this report -- the  
4 \$14.7 million that they put into savings. Travel was more than  
5 8.9 million, which was -- the Behring Point report points out  
6 to be soft dollars, in terms of possible savings.

7 Q That's right. And that was, again, because of the  
8 reduction of force at Expanets, correct?

9 A Reduction of force and change in business practices for  
10 travel.

11 Q Okay. I'd ask you to move through -- you're on Exhibit  
12 Number 2 -- to the January 31, 2003 letter, on NorthWestern  
13 letterhead, to Patrick Coleman. Are you familiar with that  
14 document?

15 A I'm sorry. Could you tell me that again?

16 Q It's right behind the end of the --

17 A Oh, I'm sorry.

18 Q I believe there's a separation page, that marks this as  
19 Exhibit 3, to Mr. Coleman's response to the claim objection.

20 A You're referring to the separation agreement?

21 Q Yes. The letter that goes with it.

22 A Okay.

23 Q Are you familiar with that document?

24 A I am familiar with it.

25 Q And was that document in NorthWestern's books and records?

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1 A Yes, it was.

2 Q Okay. And Mr. Coleman was -- was Mr. Coleman provided  
3 this letter in person, in a meeting?

4 A Yes, he was.

5 Q And this was a meeting to basically advise him of what?

6 A This meeting was to advise him that he was being severed  
7 from the company, and that we were offering him a severance  
8 agreement package.

9 Q And did he ever accept the severance agreement package?

10 A No, he did not.

11 Q In connection with the prior exhibit, which were the  
12 calculations that -- on the, I guess the reductions -- who  
13 prepared those, if you know?

14 A Those were prepared by Mr. Coleman's department.

15 Q Were those prepared by Mr. Coleman, or people working at  
16 his direction?

17 A I believe it was people working under Mr. Coleman's  
18 direction, but reviewed by Mr. Coleman.

19 Q Now, was Mr. Coleman in a supervisory authority in the  
20 procurement department?

21 A Yes, he was.

22 Q And did he -- he had, I guess, supervisory control over  
23 those individuals working for him?

24 A That is correct.

25 Q Bonus calculations, which is Exhibit 4 to Mr. Coleman's

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1 claim -- response to claim objection -- it follows the  
2 severance letter.

3 A Yes.

4 Q Based on your review of the information available at  
5 NorthWestern, including the Behring Point report, do you agree  
6 with these projected bonus calculations?

7 A No, I do not.

8 Q Okay. And is the primary differential here the soft costs  
9 and the failure to reduce those other costs, such as the  
10 external costs, the Expanets, and the other internal costs?

11 A That is a primary driver for the year 2002. But then, the  
12 expected savings in '03, '04, and '05 are inconsistent with  
13 what the business was at NorthWestern at that point. We no  
14 longer had Expanets, Blue Dot, Cornerstone, or those  
15 businesses. So there's no savings associated with those, in  
16 those subsequent years.

17 Q And Mr. Coleman was no longer employed by NorthWestern, in  
18 connection with those subsequent years, correct?

19 A That is correct.

20 Q In fact, his -- he was separated -- as shown by the letter  
21 of separation -- in January of 2003, with a last employment  
22 date of February 28th?

23 A That is correct.

24 Q And that's also consistent with the other books and  
25 records, including this payroll information?

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1 A That is correct.

2 Q And I believe we've already discussed NorthWestern's  
3 response to the relocation expenses, and I will not take you  
4 back through that. As you sit here today, is it NorthWestern's  
5 position that Mr. Coleman is entitled to any amount of allowed  
6 claim?

7 A The only potential allowed claim would be with regards to  
8 the relocation expenses that -- again, we did not have that on  
9 file -- any books and records of those, until this file claim  
10 -- when this claim was filed.

11 Q And -- thank you. And even though that he has identified  
12 certain categories as of the date of this hearing, you've not  
13 received any independent evidence, establishing amounts due for  
14 any category of moving expenses, is that correct?

15 A That is correct.

16 MS. DENNISON: Your Honor, I have no further  
17 questions of this witness.

18 THE COURT: Mr. Coleman? Mr. Coleman? Are you  
19 there, Mr. Coleman?

20 MR. COLEMAN: Yes, sir. Yes, Your Honor.

21 THE COURT: All right. You may ask -- do you have  
22 any questions of this witness?

23 MR. COLEMAN: My first question is of the Court. I  
24 have not seen Exhibit 3. Is there a way in which I can be  
25 given Exhibit 3, and have time to review that?

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1 THE COURT: Has he been provided a copy of this  
2 exhibit?

3 MS. DENNISON: No, Your Honor.

4 THE COURT: All right. We'll get you a copy. What  
5 else?

6 MR. COLEMAN: Well, I'd also like to renew my request  
7 to have witnesses available, to respond to Mr. Shrum's  
8 testimony and to request a reconsideration for an extension.

9 THE COURT: Do you have any questions of this  
10 witness?

11 MR. COLEMAN: I will, once I have the available --  
12 the exhibit.

13 CROSS EXAMINATION

14 BY MR. COLEMAN:

15 Q I can ask him if he is aware that the methodology  
16 developed for the calculation of the savings was developed by a  
17 third party, and not by either myself or my team. Is that  
18 true, Roger?

19 A Could you restate that again, please, in the form of a  
20 question. I didn't understand that as a question.

21 Q Yeah. Are you aware that the actual calculation of the  
22 operational excellence, the savings methodology was not  
23 developed by myself, but was developed by a third party?

24 A I'm not aware of that.

25 Q Were you aware that the CEOs of all the individual

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1 entities had approved the calculation and methodology of the  
2 savings?

3 A I'm not aware of that.

4 Q Were you aware that the CEOs had been reviewing them  
5 savings (sic) on a monthly basis, as part of the operational  
6 excellence meeting and had -- through June through December of  
7 the year in question -- reviewed and approved those savings  
8 calculations each and every month?

9 A I'm not aware that they -- I know that there was reviews  
10 that were done. I'm not aware that they approved those  
11 findings. I'm not aware of any approvals, no. There's nothing  
12 in the books and records to reflect any approval of those  
13 savings, I should say.

14 Q Did you review the e-mails, between my team and the CEOs  
15 of the individual entities for the time period in question?

16 A No, I did not.

17 MR. COLEMAN: Your Honor, I believe I would have  
18 further questions for this witness, but not until after I've  
19 had an opportunity to review the exhibit that's been prepared  
20 and referred to as developed by Behring Point.

21 THE COURT: All right. There's no further questions.

22 Any redirect?

23 MS. DENNISON: No, Your Honor.

24 THE COURT: You're excused, sir. Any other  
25 witnesses?

1 MS. DENNISON: No, Your Honor.

2 THE COURT: All right. Let the record show that the  
3 debtor has completed its evidence on the objection to the claim  
4 of Patrick Coleman, and that Mr. Coleman has requested  
5 additional time, in which to submit documentation in support of  
6 his claim. The Court is convinced, however, based upon the  
7 exhibits which he has submitted, that there's no basis for any  
8 of the claim which he has submitted. Through the letter,  
9 February 5, 2002, he was to be given an annual performance  
10 bonus -- contingent upon annual procurement of sales -- of  
11 savings, and it would be one percent of the first \$10 million.  
12 The witness has testified that there was no savings.

13 The severance letter was issued to Mr. Coleman on  
14 January the 31st, 2003, in which he was eligible for severance  
15 pay of twelve weeks -- which he did not take -- which would  
16 have been paid on March 7, 2003. The IRS requires that that be  
17 paid on a bonus of 27 percent withholding. He was also to be  
18 paid for any unused vacation -- hours of vacation -- and his  
19 healthcare coverage would end on February 28th.

20 The documents that have been submitted by Mr. Coleman  
21 to support a claim in excess of \$4 million, are based upon  
22 years 2003, 2004, and 2005, that far -- that exceeds any  
23 reasonable estimates, but not only that; are beyond the date of  
24 his severance. And so therefore, he could not be performing  
25 those services for the debtor in that year.

1           I further reject the performance savings of twelve  
2 thirty one two thousand two, based upon the testimony of Mr.  
3 Shrum. If there is any amount of money due Mr. Coleman, based  
4 upon the severance agreement, he was eligible for twelve weeks  
5 of severance pay. And the claim will be disallowed, in the  
6 amount of -- will be allowed only in that amount. And all  
7 balance of the claim will be rejected.

8           Next matter?

9           MS. DENNISON: Thank you, Your Honor. The last  
10 matter --

11           MR. COLEMAN: Wait. Your --

12           MS. DENNISON: -- is Item Number --

13           MR. COLEMAN: Your Honor?

14           THE COURT: Yes.

15           MR. COLEMAN: Do I have to --

16           THE COURT: There will be an order issued by the  
17 Court, Mr. Coleman. And you will have an opportunity to review  
18 that order and take whatever steps you wish, to protect your  
19 rights from that order.

20           MR. COLEMAN: Okay. All right. Thank you, Your  
21 Honor.

22           MS. DENNISON: Your Honor, just as a --

23           THE COURT: Thank you.

24           MS. DENNISON: -- matter of closing of the evidence,  
25 I want to just be sure the evidence was admitted, in connection

1 with the --

2 THE COURT: They're all admitted.

3 MS. DENNISON: Thank you, Your Honor. As a clean up  
4 matter, with regard to the motion to compel, also just request  
5 that all of those exhibits be deemed as admitted.

6 THE COURT: Right. You make the computation of the  
7 severance, and submit the order with that.

8 MS. DENNISON: Thank you, Your Honor. With regard to  
9 Matter Number 24, this is a motion to approve settlement  
10 agreement between Keith Kovak (phonetic), as personal  
11 representative for the estate of Donald Kovak, et al. Your  
12 Honor, this matter is -- only one objection was received. And  
13 that was in connection with the Magten.

14 For the record, this is a piece of litigation that  
15 was filed in the Montana State District Court, involving injury  
16 and wrongful death. The settlement includes a (sic) allowed  
17 claim of \$50,000. And that is based on the allegations set  
18 forth in the claim, and the fact that this matter is the  
19 subject of an appeal to the Montana Supreme Court. And the  
20 debtor believes this is a reasonable settlement, and would ask  
21 for approval at this time.

22 THE COURT: The motion is granted.

23 MS. DENNISON: Thank you, Your Honor. With regard to  
24 Matter Number 25, this is the motion to approve settlement  
25 agreement between NorthWestern Corporation, Douglas Fisher

1 (phonetic) and Sheila Fisher. I would note for the Court that  
2 the only objection received was Magten's. There are no other  
3 objecting parties, and the Plan Committee has indicated its  
4 support for this settlement.

5 This settlement is for \$190,000 allowed claim, plus  
6 the right to pursue any policy proceeds that may be available  
7 under the Associated Electric and Gas Insurance Services  
8 Limited policy, that's identified in the motion. NorthWestern  
9 believes that this is a reasonable settlement, particularly, in  
10 light that it results in a significant cap in NorthWestern's  
11 self-insured retention amount, and would ask for approval of  
12 this settlement at this time. And note for the record that the  
13 claim amount is well in excess of \$2 million.

14 THE COURT: The motion is granted.

15 MS. DENNISON: Thank you, Your Honor. Moving on to  
16 Matter Number 26. This is the motion to approve the settlement  
17 agreement between NorthWestern Corporation and Rebecca Meyer  
18 (phonetic), as personal representative for the estate of  
19 Orville Meyer. We received an objection from Magten, which the  
20 Court has noted. And we've also received an objection from  
21 National Union. The order has been revised to, we understand,  
22 National Union's consent, saying that the -- in connection  
23 with, they don't have an objection to the settlement, itself,  
24 but wanted additional language in the order.

25 For the record here, Your Honor, this involves a

1 piece of litigation in the Montana Second Judicial District,  
2 involving personal injury and death, with damages claimed in  
3 excess of \$5 million. The settlement amount is \$100,000  
4 allowed claim, plus the ability to pursue certain insurance  
5 proceeds on a policy held by National Fire Insurance Company.  
6 The debtor would note that this is also a cap to the  
7 self-insured retention amount. And the debtor believes that  
8 the \$100,000 allowed claim is in the best interest of the  
9 estate. And I note that counsel for National Union is now at  
10 the podium.

11 MR. CASARINO: Good afternoon, now, Your Honor.

12 THE COURT: (Inaudible) matter with the amendment to  
13 reserve the rights to National Union?

14 MS. DENNISON: That's correct.

15 MR. CASARINO: Your Honor, Marc Casarino, on behalf  
16 of National Union. With the revisions to the order, that  
17 debtor's counsel has agreed to, we withdraw our objection.

18 THE COURT: All right. Thank you, very much.

19 MR. CASARINO: Your Honor, that being the only matter  
20 I have before you, may I be excused?

21 THE COURT: You may.

22 MR. CASARINO: Thank you, Your Honor.

23 THE COURT: Number 27?

24 MS. DENNISON: Thank you, Your Honor. Did we get --  
25 was Number 26 approved, Your Honor? Was it granted?

1 THE COURT: Yes.

2 MS. DENNISON: Thank you, Your Honor. Matter Number  
3 27 is the debtor's motion for order, pursuant to Bankruptcy  
4 Rule 9019, approving settlement between NorthWestern  
5 Corporation and Dan Newell (phonetic). The only objection to  
6 this was Magten's, Your Honor. And at this point, based on the  
7 papers the debtor has provided, we'd ask for the Court to  
8 approve the allowed claim of \$850,000 for Mr. Newell.

9 THE COURT: That preserves his right to the 92,203,  
10 which has been previously granted, correct?

11 MS. DENNISON: That's correct, Your Honor.

12 THE COURT: All right. The motion is granted.

13 MS. DENNISON: Thank you. Matter Number 28 has  
14 already been disposed of, Your Honor. That was the Milbank  
15 settlement. Matter Number 29 is the motion for order, pursuant  
16 to Bankruptcy Rule 9019, approving settlement agreement between  
17 NorthWestern Corporation and First Interstate Bank and Mazula  
18 Parking Commission. This settlement, Your Honor, is for a  
19 \$330,000 allowed claim. It's a claim that was in excess of  
20 \$500,000. It -- or \$500 million, excuse me. And it involves  
21 environmental CIRCLA and other claims.

22 The debtor has a dispute -- or had a significant  
23 dispute -- in connection with how the Uniform Purchase  
24 Agreement should be interpreted, and believes that this amount  
25 is a reasonable settlement. And the Plan Committee is in

1 support thereof. And at this time, we would ask the Court  
2 approve a \$330,000 allowed claim.

3 THE COURT: One of the objections, that was voiced by  
4 Magten on this claim ,is that it's a late filed claim. What is  
5 your answer?

6 MS. DENNISON: Your Honor, the claim was not properly  
7 scheduled. And notice wasn't given. So, the debtor had two  
8 choices; to amend the schedules and put the claim in, and  
9 provide these individuals with an opportunity to object.  
10 Either way, we would have still ended up with a claim, because  
11 the debtor didn't properly schedule it and notice was not  
12 given.

13 THE COURT: All right. The motion will be granted.

14 MS. DENNISON: Thank you, Your Honor. Matter Number  
15 30 is the motion for order, pursuant to Bankruptcy Rule 9019,  
16 approving stipulation by and between -- or between and among --  
17 NorthWestern Corporation and Richard R. Hylland. The only  
18 objection received is Magten.

19 Mr. Hylland's claim was in excess of \$30 million.  
20 This settlement is the result of months of negotiation, and  
21 disposes of -- with certain limited exceptions -- all of the  
22 Hylland claims in the NorthWestern bankruptcy, for an allowed  
23 claim of \$2,928,630. And at this point, we would ask that this  
24 settlement be approved. And I note that Mr. Demmy is at the  
25 podium.

1 THE COURT: The motion to approve the Hylland claim  
2 is granted.

3 MS. DENNISON: Thank you, Your Honor.

4 MR. DEMMY: Thank you. Your Honor, may I inquire --  
5 well first, I should note that the order has been revised, from  
6 when it was originally filed. And we have agreement on the  
7 form of order. I just would like to confirm with Ms. Dennison  
8 that that is the case. And the order that I saw yesterday  
9 afternoon would be presented to the Court.

10 MS. DENNISON: Yes, Mr. Demmy. Your order will be  
11 submitted under certification of counsel, since it did change.  
12 And I don't have it with me, but we will submit it later today.  
13 So that you will -- once submitted -- and can confirm that it  
14 is the revised order.

15 MR. DEMMY: Thank you. And --

16 THE COURT: Have you seen the revised order?

17 MS. DENNISON: I have seen the language for the  
18 revised order, Your Honor. I do not have the hard copy with  
19 me.

20 THE COURT: All right. Submit it to counsel, before  
21 you give it to me, so I know --

22 MS. DENNISON: Yes, yes. That's --

23 THE COURT: -- you've come to an agreement.

24 MS. DENNISON: We would submit it under a  
25 certification of counsel this afternoon.

1 MR. DEMMY: And in that regard -- I appreciate that.  
2 In that regard, may I inquire of the Court; if we submit it on  
3 certification, is it likely that the order would get entered  
4 today? You know, timing is a material term in all of these  
5 agreements with claimants. And we'd like to see the order  
6 entered as quickly as possible.

7 THE COURT: As soon as I get the order, I'll fax it  
8 back out to -- for docketing.

9 MR. DEMMY: Thank you very much, Your Honor.

10 THE COURT: If that's given to me today, it will be  
11 sent out today.

12 MR. DEMMY: Thank you.

13 THE COURT: All right.

14 MS. DENNISON: Your Honor, the next matter is the  
15 motion for order, pursuant to Bankruptcy Rule 9019, approving  
16 settlement agreement between NorthWestern Corporation, Reiser  
17 War (phonetic) and Carol War. The only objection on file was  
18 that of Magten. The Plan Committee is in support of the  
19 settlement. This is a settlement of \$200,000 of allowed claim,  
20 plus insurance proceeds, to the insurance policy identified in  
21 the motion, which is with Associated Electric and Gas Insurance  
22 Services.

23 The claim amount was north of \$11 million. And  
24 through this settlement the debtor has reduced its self-insured  
25 retention amount, and risks thereon for a much greater

1 settlement. At this point, the debtor would ask for approval  
2 of the War settlement.

3 THE COURT: The motion is granted.

4 MS. DENNISON: Thank you, Your Honor. Matter Number  
5 32 is the motion to approve the settlement between NorthWestern  
6 Corporation and James J. Murphy. This is following up on the  
7 Court's instruction for the debtor, to determine the allowed  
8 claim. We have reached agreement with Mr. Murphy, that that  
9 allowed claim should be \$267,000 -- \$267,460. And I understand  
10 that the order has been worked out, as between Mr. Gellert and  
11 my office in Atlanta. And we propose that the form of order be  
12 submitted under certification of counsel this afternoon.

13 THE COURT: Very well. The motion for a settlement  
14 will be granted.

15 MS. DENNISON: Thank you, Your Honor.

16 MR. GELLERT: Your Honor, this is Ronald Gellert. I  
17 just have a -- I guess, a housekeeping question -- with respect  
18 to the entry of that order. There has been a notice of appeal  
19 filed in that matter. And --

20 THE COURT: I found that out. There is an appeal.  
21 And my position on that is it does not dev-est me of  
22 jurisdiction, because this matter is not included with any of  
23 the issues that could have been raised on appeal, pursuant to  
24 the order.

25 MR. GELLERT: Okay.

1 THE COURT: All right?

2 MR. GELLERT: Thank you, Your Honor.

3 THE COURT: All right.

4 MS. DENNISON: Matter Number 33, Your Honor, is the  
5 debtor's motion for order, pursuant to Bankruptcy Rule 9019,  
6 approving settlement between NorthWestern Corporation and Merle  
7 Lewis. This results in a settlement of -- providing for an  
8 allowed claim of \$6,500,000 in allowed claim. The debtor filed  
9 a motion to shorten time. And I note, for the record, the  
10 debtor is cognizant of the transfer of the matter -- for  
11 discovery purposes -- to Judge Baxter. But the debtor is  
12 hoping that this Court would be willing to consider this  
13 settlement, so it could proceed, to effectuate the settlement  
14 with Mr. Lewis.

15 The Plan Committee is in support of the settlement.  
16 This settlement results with a significant reduction of the  
17 claim, as filed by Mr. Lewis. And the debtor believes that  
18 it's appropriate for the settlement to be approved at this  
19 time, were this Court willing to do so.

20 THE COURT: The motion is granted. And the  
21 settlement is approved with Charter.

22 MS. DENNISON: Thank you, Your Honor.

23 MR. LEVITSKY: Thank you, Your Honor. Neal Levitsky,  
24 for Merle Lewis. We would also like to see if that order could  
25 be docketed today. We understand Your Honor's very busy.

1 Thank you.

2 THE COURT: I can -- the orders -- I think I have --  
3 I've got a copy of that order.

4 MS. DENNISON: Yes, Your Honor. There was certain  
5 language that --

6 THE COURT: What did you have to change?

7 MS. DENNISON: Yes. There was some language that was  
8 changed in that order. And we will send over the final order  
9 this afternoon. I don't have the final copy.

10 THE COURT: Well, can you get those to me by noon?

11 MS. DENNISON: Yes, Your Honor. We can certainly get  
12 them to you by noon.

13 THE COURT: All right. We'll get it out today.

14 MR. LEVITSKY: Thank you, Your Honor.

15 THE COURT: I don't know when it will be docketed,  
16 but it will be signed by me today.

17 MR. LEVITSKY: I understand.

18 MS. DENNISON: Thank you, Your Honor.

19 THE COURT: All right.

20 MS. DENNISON: With regard to Matter Number 34, this  
21 is the motion of NorthWestern Corporation and net (phonetic) -  
22 - this motion has also been filed in the net exit case, Your  
23 Honor, seeking to settle claims with John Charters. Today, we  
24 seek approval of settling the NorthWestern Claim Number 559.  
25 This claim results in the payment by NorthWestern of \$250,000

1 in allowed claim. The debtor filed a motion short in time.  
2 And there have been no objections. And the Plan Committee has  
3 indicated its support for this settlement.

4                 This settlement arises out of an employment contract  
5 that was made between the claimant and NorthWestern, and  
6 results in a significant amount of the claim, if viewed in its  
7 totality. NorthWestern has submitted, in the pleadings, that  
8 it's reasonable and the best interest of the debtor, and would  
9 request that the Court approve this settlement as to  
10 NorthWestern at this time, and that the proposed order be  
11 entered.

12                 THE COURT: How did you arrive at the 6.5 million?

13                 MS. DENNISON: For Mr. Lewis' claim? That's a  
14 combination, Your Honor, of amounts that he was owed under  
15 certain non-qualified plans, because he was excluded from  
16 those. That would include the TPAP, the traditional pension  
17 equalization plan, the SISP, which is -- thank you --  
18 Supplemental Income Plan, temporary medical benefits, that the  
19 company determined were owed to Mr. Lewis, and a component for  
20 fees and costs, that was appropriate, given the level of Mr.  
21 Lewis' claim.

22                 THE COURT: Is the order that's submitted on this  
23 settlement agreeable to counsel?

24                 MS. DENNISON: No, Your Honor. The order that was  
25 filed on the Lewis matter has had -- has certain language that

1 was added in earlier this week. It does not affect the amount  
2 of the allowed claim, but it does deal with the carve-out,  
3 based on certain other claims, which would include -- exclude -  
4 - minority shareholder indemnification claims, net exit tax  
5 identification claims, and other items that have been  
6 identified.

7 THE COURT: Counsel?

8 MR. LEVITSKY: Your Honor, that's correct. Just for  
9 the record, we filed a proof of claim in excess of -- just  
10 under \$13 million. Thereafter, we hired an economist and had  
11 some calculations done, using the Federal Reserve discount  
12 rates, which we thought were more appropriate than that which  
13 NorthWestern was using. And the claim amounts we were coming  
14 back for were around eight and a half million. So, this is a  
15 compromise.

16 THE COURT: The motion will be granted, and the order  
17 will be entered.

18 MR. LEVITSKY: Thank you.

19 MS. DENNISON: Should we move to Matter 34, Your  
20 Honor, on John Charters? This is --

21 THE COURT: Which one?

22 MS. DENNISON: This is the last item on the calendar.  
23 This was when we actually filed the motion short in time on.  
24 It involves a settlement between NorthWestern net exit and John  
25 Charters. And today, we're seeking approval to settle the net

1 exit -- or, excuse me -- the NorthWestern claim, for an allowed  
2 claim of \$250,000. The Plan Committee has indicated its  
3 support of this settlement. It arises out of an employment  
4 contract, as between Mr. Charters and NorthWestern, and results  
5 in a significant reduction of Mr. Charters' overall asserted  
6 claim.

7 THE COURT: All right. The Charter agreement is  
8 approved.

9 MS. DENNISON: Thank you, Your Honor. That concludes  
10 the agenda. I will hand out the orders, other than those that  
11 will need to be submitted under certification of counsel, which  
12 would be Mr. Hylland, Mr. Lewis. We'll also be sending over  
13 the Newell order separately, this afternoon.

14 THE COURT: I have one question for you. When I  
15 received the agenda plus the books, there were three additional  
16 bound volumes that were submitted -- sent to me. I don't know  
17 what for. But they involved the Magten fee appeal. And I have  
18 no interest in that matter anymore.

19 MS. DENNISON: I apologize for that, Your Honor. On  
20 that, I would confess it's a mystery to me, as well. We'd be  
21 happy to take those binders off the Court's hands.

22 THE COURT: Well, why don't you have somebody come up  
23 here? And they can take them back and mail them back.

24 MS. DENNISON: Thank you, Your Honor. If that -- if  
25 I could approach, as to hand up the orders at this time? Thank

1 you. Mr. Knapp has just reminded me about inquiry, as to the  
2 next omnibus hearing date.

3 THE COURT: Good question. I'm going to get together  
4 with Nancy and Jennifer. Nancy, I'll call you when I get back  
5 to chambers. And we'll get something lined out. There's some  
6 other problems coming up. I'll get to scheduling. And I've  
7 got to talk to her first. We haven't got anything set yet.

8 MS. DENNISON: Thank you, Your Honor.

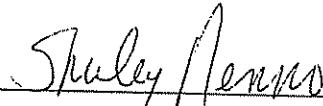
9 THE COURT: All right. Court will be adjourned.

10 MS. DENNISON: Thank you.

11 \* \* \* \* \*

12 C E R T I F I C A T I O N

13 I, Shirley Nenno, court approved transcriber, certify  
14 that the foregoing is a correct transcript from the official  
15 electronic sound recording of the proceedings in the  
16 above-entitled matter, to the best of my ability.

17   
18 \_\_\_\_\_ DATE: August 19, 2005  
19 SHIRLEY NENNO

20 J&J COURT TRANSCRIBERS, INC.

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**CERTIFICATE OF SERVICE**

I, Eric M. Sutty, do hereby certify that on this 23rd day of August, 2005, I caused a true and correct copy of the attached **Appendix of Exhibits in Support of Brief of Appellee, The Plan Committee** to be served upon the following parties in the manner indicated.

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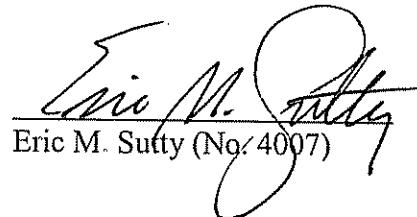
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